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LLP
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OFFICE OF PETITIONS

Applicant: Zhao et al.
Appl. No.: 10/575,457
International Filing Date: July 30, 2004
Title: NEUROPROTECTIVE EFFECTS OF ATF6
Attorney Docket No.: 085760004
Pub. No.: US 2006/0246037 A1
Pub. Date: November 2, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 3, 2007, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the first inventor's name "Byron Zhao" is misprinted as "Bryon Zhao".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

On July 27, 2006, a Filing Receipt was mailed by the Office, which improperly listed the first inventor's name, as "Bryon Zhao" and stated that the projected publication date was November 2, 2006.

On October, 3, 2006, Applicant's representative made a request for a corrected filing receipt. The correction was made too late in the publication process to be entered into the publication.

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The error on the front page of the publication may be an Office error, but it is a not material Office error under 37 CFR 1.221. The misspelling of an inventor's name does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant's argument that the error is material because the first inventor will be used to identify the application in databases including the Office and may lead to confusion during prosecution of any continuing applications is not persuasive. The Office records have been corrected and Examiner's examine the applications in the image file wrapper, not the pre-grant publications.

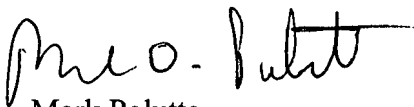
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
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By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy